



JPMorganChase
Treasury & Securities Services

March 13, 2006

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

(Via electronic mail to regs.comments@federalreserve.gov and
via fax to (202) 452-3819)

Re: Interim Final Rule; Request for Public Comment
Regulation E; Docket No. R-1247

Dear Ms. Johnson:

I. BACKGROUND

On January 10, 2006 the Board of Governors of the Federal Reserve System ("Board") published in the Federal Register an interim final rule ("Interim Final Rule") that provides that the term "account" as that term is used in Federal Reserve Regulation E ("Regulation E") includes a "payroll card account". The Interim Final Rule also provides that "a financial institution need not furnish a periodic statement required by §205.9(b) if the institution makes" certain information available to the consumer by specified means.

JPMorgan Chase generally supports the position the Board has taken in the Interim Final Rule, but believes that the definition of "account" should be expanded to include accounts in addition to those covered by the new definition of "payroll card account". JPMorgan Chase's responses to the specific questions posed by the Board are set forth in the next section of this letter.

JPMorgan Chase Bank, National Association ("JPMCB"), and JPMorgan Electronic Financial Services, Inc. ("JPMEFS"), both of which issue prepaid debit cards that are affected by the Interim Final Rule, are pleased to submit the comments contained in this letter. JPMCB and JPMEFS (which we will refer to collectively in this letter as



JPMorgan Chase) are subsidiaries of JPMorgan & Co. JPMorgan Chase & Co. is a leading global financial services firm with assets of \$1.2 trillion and operations in more than 50 countries. Please see JPMorgan Chase & Co.'s Web site at www.jpmorganchase.com for more information about the firm.

II. RESPONSES TO SPECIFIC REQUESTS FOR COMMENT

The Interim Final Rule offers an alternative to providing periodic statements under §205.9 of Regulation E. Pursuant to that alternative, institutions may instead make available to the consumer: (i) the consumer's account balance through a readily available telephone line; (ii) an electronic history, such as through an Internet Web site, of the consumer's account transactions that covers at least 60 days preceding the date the consumer electronically accesses the account; and (iii) a written history of the consumer's account transactions that is provided promptly in response to an oral or written request and that covers at least 60 days preceding the date of receipt of a request by the consumer. Pursuant to the Interim Final Rule institutions would be required to provide the same type of account transaction information to consumers as is set forth in §205.9(b)(1)-(6) of Regulation E, whether the history of account transactions is provided electronically or in writing. The Board has asked for comments on the following questions:

1. Is the option to obtain a written history of account transactions necessary or appropriate? (January 10, 2006 Federal Register (Fed. Reg) at page 1478) JPMorgan Chase believes that it is not necessary to include the requirement that institutions make available to the consumer a written history of the consumer's account, but that it is appropriate to do so. It is not necessary to provide it because consumers will be able to obtain the same information through an Internet Web site and in many instances will be able to print that information from that Web site. JPMorgan Chase believes that generally, consumers who are willing to use a payroll card are likely to be comfortable with obtaining their information online. It is nonetheless appropriate to provide it because some consumers may not always have access to a computer or may simply prefer receiving the information in writing from the institution. The benefit to consumers who choose that option would outweigh any considerations that might argue against it.

2.a. Should additional transaction information be provided to payroll card users; should certain information be excluded from the history of account transactions? (Fed. Reg. at page 1478) The information provided to consumers who are payroll card users should not be any different than the information required by §205.9(b)(1)-(6) of Regulation E.

2.b. What is the feasibility of providing consumers with a rolling history of 60 days' worth of transactions? (Fed. Reg. at page 1478) Providing consumers with a rolling history of 60 days' worth of transactions is feasible both technologically and otherwise. Many institutions, including JPMorgan Chase, already make that information



available electronically for a considerably longer period of time. The key, as discussed below, is the start of the rolling period.

3. What is the feasibility of determining when a consumer has electronically accessed his or her account? (Fed. Reg. at page 1479)
Are other means of triggering the 60-day time periods for establishing liability for unauthorized EFTs or for error resolution appropriate? (Fed. Reg. at page 1479)
What is the feasibility of determining when a consumer has accessed specific transaction information about his or her payroll card account where the consumer can also access other personal information connected to his or her employment (e.g., health benefits or insurance) on the same Internet Web site? (Fed. Reg. at page 1479)

The Interim Final Rule provides that "the 60-day period for reporting any unauthorized transfer that appears on a periodic statement shall begin on the earlier of:

- (i) The date the consumer electronically accesses the consumer's account..., provided that the information about the transfer was made available to the consumer at that time; or
- (ii) The date the financial institution sends a written history of the consumer's account transactions..."

The 60-day period applicable to error resolution is calculated in the same way.

The proposal allows no certainty to consumers, financial institutions or merchants and it fails to encourage consumers to review their account activity in a timely manner. Based on this calculation, a financial institution could never have a system that kept information for a set period. That is, with no fixed starting period, even making information available for 180 days (as many banks do) might not be sufficient if a consumer chose not to access the account information. While JPMorgan understands the need to allow consumers a reasonable period of time to access their statements and to assert claims, this need should be balanced with the benefit of providing all parties certainty in connection with the finality of the transaction.

Currently, the requirements regarding statements and error resolution together describe a period of time that has a definitive beginning and a definitive end and that is fair to both the consumer and the financial institution issuing the card and the counterparty to the transaction. The final rule should provide similar certainty. Those answers should also provide an incentive to consumers to review the history of their account transactions regularly. The Interim Final Rule provides a disincentive in that regard.

For the foregoing reasons, JPMorgan Chase suggests that the 60-day period for reporting unauthorized transfers, and the 60-day period applicable to error resolution, begin on the date on which the relevant information is first made available. If the Board



believes that does not provide consumers sufficient time to review the information, JPMorgan Chase would propose a rule more consistent with the current statement rules. The 60-day period could begin at the end of the month in which a transaction occurred.

It would not be feasible at this time to determine when a consumer has accessed specific transaction information about his or her payroll card account and JPMorgan Chase believes that it would require a significant expenditure of time and other resources to change systems to make it feasible. JPMorgan Chase further believes that a satisfactory solution can be achieved that would not require such systems development. Moreover, the benefits of any such changes would be far less than the costs.

III. OTHER COMMENTS

Although the Board has not specifically asked for comments on other aspects of the Interim Final Rule, or on the Interim Final Rule generally, JPMorgan Chase believes that the Board needs to broaden its definition of “payroll card accounts” to include other card products currently on the market including government managed or directed consumer payments such as Child Support, Unemployment Insurance, and Workers compensation. For this reason, the Board should not focus on the specific product and the associated account established for the cardholders, but rather the cardholders and their relationship to the funds that the third parties deposit to their card account on a recurring basis.

More specifically, JPMorgan Chase suggests that the defined term and definition read as follows:

[A] “recurring payment card account” directly or indirectly established on behalf of a consumer to which electronic fund transfers are made on a recurring basis, whether the account is operated or managed by a third party entity, a depository institution, or any other person.

The only distinction between these card accounts and standard checking accounts is that a debit card is the sole method of access to these accounts. The sources of funds and their use remain the same for the cardholders and any other consumers receiving a direct deposit to their checking account. Therefore, the rationale for having Regulation E apply to “payroll card accounts” seems to apply equally to those other types of card accounts, and would provide greater consistency in the marketplace by offering institutions a more definitive guide with respect to the types of card accounts to which Regulation E applies.



IV. CLOSING

JPMorgan Chase appreciates the opportunity to comment with respect to the Interim Final Rule and would be pleased to discuss with you any of the points made in this letter. If you would like to do that, or if you have any questions, please contact me at (212) 552-4609.

Very truly yours,

A handwritten signature in black ink, appearing to read 'P. H. Simpson', written over the printed name.

Paul H. Simpson
Senior Vice President